



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Address: COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/789,853	02/27/2004	Sridhar Jawaharlal	0813798.00017	8491
545	7590	02/11/2009		
IP Patent Docketing K&L GATES LLP 599 Lexington Avenue 33rd Floor New York, NY 10022-6030			EXAMINER YOO, JASSON H	
			ART UNIT 3714	PAPER NUMBER
			MAIL DATE 02/11/2009	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/789,853

**Applicant(s)**

JAWAHARLAL, SRIDHAR

**Examiner**

Jasson H. Yoo

**Art Unit**

3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 01 December 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-56 is/are pending in the application.
- 4a) Of the above claim(s) 56 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-55 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/CDC)
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date: \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date: \_\_\_\_\_

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 12/1/08 has been entered.

### ***Specification***

The disclosure is objected to because it contains an embedded hyperlink and/or other form of browser-executable code (Applicant's specification, paragraph 2, <http://www.gsmworld.com/technology/sms/intro.shtml>). Applicant is required to delete the embedded hyperlink and/or other form of browser-executable code. See MPEP § 608.01.

### ***Claim Objections***

Claims 1, 2, 28, 29, 54, 55 are objected to because of the following informalities: "SMS text message" should be replaced with --Short Message Service (SMS) text message--. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 2-27, 29-48, 55 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The claim limitation of "non-textual image displayed" is not supported in the specification. The closest description for this limitation is provided in Applicant's specification paragraph 12. Paragraph 12 discloses that the game may be an animated graphical game which may be displayed on a user's cell phone. However an animated graphical game does not exclude textual images from being displayed. For example, an animated game may comprise texts that are animated.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 7, 28, 54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Akalley (GB 2385802) as supported by Rayne (GB 2384330).

Claims 1, 7, 28, 54. Akalley discloses a remote access based gaming system and a method for playing the remote access based game, by enabling a user to play a lottery game using a cellular phone (abstract). The gaming system enables the user to enter the lottery game using text message in the form of an SMS message (abstract, page 2, line 21). More than one cellular telephone is connected in the network (page 4, lines 20-21). Thus it is implied that numerous users each with a cellular telephone are used with the gaming system. The gaming comprises a text message entry system 10 which acts as an application server and an aggregator to collect and transfer the entry from the cellular phone to the lottery system 14 and to communicate with the lottery system 14. A database (28 in Fig. 2) is used to store player account and debit from the accounts the play the game (page 4, lines 25 – page 5, lines 13, page 8, lines 12-25). Thus, this account can be interpreted as a user's account or an account for the user at the user terminal. If the player's account is established with credits, a portion or a percentage of the account is used to player the lottery game (page 8, lines 12-25). The winning game players are contacted with an appropriate text message (90 in Fig. 4, page 9 lines 11-13) and the players' accounts are credited with the winnings accordingly (page 8, 22-24). Thus as multiple games (whether it's for a current game or future game) are played, multiple amounts are debited. These amounts are considered to be the first amount, second amount, and third amount. The display of the first and second SMS text messages is considered to be an enriched graphics of text messages that represents a lottery game.

Akalley discloses the claimed invention but fails to specifically teach the application server includes a plurality of application servers, the SMS message is translated to Java, the specifics processes of translating the SMS messages to Java. Nevertheless, such limitations are well known in the art and would have been obvious to incorporate the limitations into Akalley's gaming devices as discussed above.

In a network environment a server may consists of one server, or many servers to form a single server. Multiple servers that form a single server are used in networks in order to share the services of the server among a plurality of servers. Therefore it would have been obvious to one of ordinary skilled in the art at the time the invention was made to modify Akalley's gaming device and have the application server include a plurality of application servers in order to share the servers of the server among a plurality of servers.

Furthermore, Akalley's specifically discloses the text message (SMS message) is converted to suitable signal for communication with the lottery interface (page 5:29-6:21). Java is a format that is commonly used in electronic games. Furthermore, Binary and ASCII text formats are also well known formats in the art. It is well known in the art to change one computer format to another. Akalley specifically teaches SMS message format is used to communicate with a lottery gaming system regardless of what format the gaming designer decides to use and convert to. Therefore it would have been obvious to one of ordinary skilled in the art at the time the invention was made to modify Akalley's gaming invention, and incorporate the conversion of SMS to

ASCII to Binary and to Java in order to provide translate the SMS messages into compatible format of the lottery system.

In addition, in an analogous art to methods of requesting services from mobile devices, Rayne discloses a method for a user to request information by sending a SMS message to a server (page 2, lines 4-7). The server receives the message and replies to the user by sending a response SMS message (page 2, lines 8-20). The messages are converted from a SMS format to a Java format, (page 7, line 13 – page 8, line 23; page 9, lined 10-28). This allows devices running an application in one format to recognize data in the form of another format. Therefore it would have been obvious to one of ordinary skilled in the art at the time the invention was made to modify Akalley's gaming invention, and incorporate the conversion of SMS to ASCII to Binary and to Java since the method of method of converting one computer format into another is supported by Rayne

Claims 2-6, 8-10, 12-27, 29-37, 39-53 and 55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Akalley (GB 2385802) in view of Shiigi (US 2002/0046249).

Claims 2, 29, 55. Akalley disclosed the claimed invention as discussed above but fails to teach the lottery game including a non-textual image displayed on the user terminal (mobile telephone). Nevertheless, such modifications would have been obvious to one of ordinary skilled in the art. In an analogous art to transmitting

messages on a mobile telephone, Shiigi discloses that Java based mobile devices can be used to transmit and receive SMS messages (paragraph 98). Shiigi further discloses that SMS messages can be sent with non-textual image (graphics, paragraph 98). Thus modifying Akalley method of receiving lottery outcomes via SMS messages with Shiigi's method of attaching graphics to SMS messages will allow users to view the lottery game outcome as a non-textual image. The non-textual image provides players more excitement when viewing the game outcome. Therefore it would have been obvious to one of ordinary skilled in the art at the time the invention was made to modify Akalley's method of playing a lottery game, and incorporate Shiigi's method of incorporate graphics to SMS messages in order to display the game outcome in an exciting non-textual image.

Claims 3, 30. The combination of Akalley in view of Shiigi discloses a mobile telephone (See abstract and rejection for claim 1 above).

Claims 4-6, 28, 32-33. The combination of Akalley in view of Shiigi discloses different gaming format and converting to different game formats (See rejection for claim 1 as supported by Rayne above).

Claims 8-10, 12-24, 31, 34-37, 39-51. The combination of Akalley in view of Shiigi discloses multiple users, playing a plurality of games, being notified with the game results and debiting and crediting the account according the played games. For



example, Akalley discloses a database (28 in Fig. 2) is used to store player account and debit from the accounts the play the game (page 4, lines 25 – page 5, lines 13, page 8, lines 12-25). Thus, this account can be interpreted as a user's account or an account for the user at the user terminal. If the player's account is established with credits, a portion or a percentage of the account is used to player the lottery game (page 8, lines 12-25). The winning game players are contacted with an appropriate text message (90 in Fig. 4, page 9 lines 11-13) and the players' accounts are credited with the winnings accordingly (page 8, 22-24). Thus as multiple games (whether it's for a current game or future game) are played, multiple amounts are debited. These amounts are considered to be the first amount, second amount, and third amount.

Claim 25. The combination of Akalley in view of Shiigi discloses a plurality of applications server (see rejection for claim 1).

Claims 26-27, 52-53. The combination of Akalley in view of Shiigi discloses simulating an instant win/scratch-off lottery game [Since the game is lottery game displayed on telephone, the textual outcome (Akalley, abstract, page 2, line 21) or the graphical outcome (Shiigi, paragraph 98) can be interpreted as simulated instant win or scratch-off lottery game).

Claims 11 and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Akalley (GB 2385802) in view of Cousineu (US 2004/0162142).

Akalley significantly discloses the claimed invention as discussed above. Akalley discloses funds are transferred to and from the player's account during the player of the game. However, Akalley fails to specifically teach that a financial entity is associated with the players account. Nevertheless Cousineu discloses a method of playing a lottery game using SMS or Java on a cell phone wherein a financial entity is associated with the players account (32 in Fig. 1). The Financial entity allows players to use their financial accounts to directly pay for the lottery game. Winnings are also transferred direction to the player financial account. Associating a financial entity with the players account facilitates the funding and crediting process by allowing the lottery system to directly access the financial account instead of providing an intermediate account system. Therefore it would have been obvious to one of ordinary skilled in the art at the time the invention was made to modify Akalley's gaming system and associate a financial entity with the players account in order to facilitate the funding and crediting process.

### ***Response to Arguments***

Applicant's arguments with respect to claims 1-55 have been considered but are moot in view of the new ground(s) of rejection.

It is noted that claim 56, was previously withdrawn. Thus claim 56 should be properly labeled as withdrawn.

Regarding claims 1-55, Applicant asserts that it would have not been obvious to convert one computer format into another. However, a supporting reference, Rayne has been provided to teach that it is well known to convert one computer format into another (such as SMS into Java). Furthermore, although Shiigi's (US 2002/0046249) was not relied upon to teach converting data from Java format into SMS format, Shiigi also teaches that it is well known to convert one computer format into another. More specifically, Shiigi discloses that Java based devices are used to transmit and receive SMS messages (paragraph 99). Thus, the SMS messages are converted accordingly, in order for the Java based devices to interpret the SMS messages.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jasson H. Yoo whose telephone number is (571)272-5563. The examiner can normally be reached on 9:00am - 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dmitry Suhol can be reached on (571) 272-4430. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JHY

/Peter D. Vo/

Supervisory Patent Examiner, Art Unit 3714